

any insurer of that person shall be liable, to the extent determined under applicable law, for damages to which paragraph (1) does not apply.

(3) The Secretary may not issue a permit subject to this section to a person unless that person demonstrates to the Secretary the financial ability to assume liability for all damages that may arise with respect to an artificial reef and for which such permittee may be liable.

(4) Any person who has transferred title to artificial reef construction materials to a person to whom a permit is issued in accordance with subsection (a) of this section shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the plan published under section 2103 of this title and are not otherwise defective at the time title is transferred.

(d) Liability of the United States

Nothing in this chapter creates any liability on the part of the United States.

(e) Civil penalty

Any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued in accordance with subsection (a) of this section shall be liable to the United States for a civil penalty, not to exceed \$10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

(Pub. L. 98-623, title II, § 205, Nov. 8, 1984, 98 Stat. 3396.)

§ 2105. Definitions

For purposes of this chapter—

(1) The term “artificial reef” means a structure which is constructed or placed in waters covered under this chapter for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, Guam, Johnston Island, Midway Island, and Wake Island.

(3) The term “waters covered under this chapter” means the navigable waters of the United States and the waters superjacent to the Outer Continental Shelf as defined in section 1331 of title 43, to the extent such waters exist in or are adjacent to any State.

(Pub. L. 98-623, title II, § 206, Nov. 8, 1984, 98 Stat. 3397.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2103 of this title.

§ 2106. Savings clauses

(a) Tennessee Valley Authority jurisdiction

Nothing in this chapter shall be construed as replacing or superseding section 831y-1 of title 16.

(b) State jurisdiction

Nothing in this chapter shall be construed as extending or diminishing the jurisdiction or authority of any State over the siting, construction, monitoring, or managing of artificial reefs within its boundaries.

(Pub. L. 98-623, title II, § 208, Nov. 8, 1984, 98 Stat. 3398.)

CHAPTER 36—WATER RESOURCES DEVELOPMENT

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§ 2201. "Secretary" defined

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

(Pub. L. 99-662, §2, Nov. 17, 1986, 100 Stat. 4082.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended, known as the Water Resources Development Act of 1986. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-541, §1(a), Dec. 11, 2000, 114 Stat. 2572, provided that: "This Act [see Tables for classification] may be cited as the 'Water Resources Development Act of 2000'."

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-53, §1(a), Aug. 17, 1999, 113 Stat. 269, provided that: "This Act [see Tables for classification] may be cited as the 'Water Resources Development Act of 1999'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-303, §1(a), Oct. 12, 1996, 110 Stat. 3658, provided that: "This Act [see Tables for classification] may be cited as the 'Water Resources Development Act of 1996'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-580, §1(a), Oct. 31, 1992, 106 Stat. 4797, provided that: "This Act [enacting sections 59gg, 426i-1, 569d to 569f, 653, 1271, 2268, and 2325 to 2329 of this title, amending sections 426j, 467f, 467j to 467l, 562, 652, 1342, 1412, 1413, 1414, 1415, 1416, 1420, 1421, 2211, 2213, 2283, and 2309a of this title, section 3036 of Title 10, Armed Forces, sections 460tt, 4702, and 4711 of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 541, 1271, 2211, 2239, 2267, and 2281 of this title, section 9505 of Title 26, Internal Revenue Code, and sections 390h-4 and 390h-5 of Title 43, Public Lands] may be cited as the 'Water Resources Development Act of 1992'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-640, §1(a), Nov. 28, 1990, 104 Stat. 4604, provided that: "This Act [enacting sections 59bb and 2316 to 2324 of this title, amending sections 579a, 652, 701n, 709a, 2213, 2215, 2232, 2238, 2281, 2309a, and 2314a of this title, section 460tt of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, repealing sections 579 and 2239 of this title, enacting provisions set out as notes under this section, sections 426e, 1252, 1268, 2213, 2232, 2239, 2313, and 2317 of this title, and section 1405c of Title 48, Territories and Insular Possessions, and amending provisions set out as notes under sections 2294 and 2314 of this title and sec-